

Private correspondence school program conducted by correspondence school. An exempt organization, not publicly supported, whose primary activity is providing specialized instruction by correspondence and that also offers a five- to 10-day seminar program of personal instruction for students who have completed the correspondence course is not an organization described in section 170(b)(1)(A)(ii) of the Code and is a private foundation as defined in section 509(a).

Advice has been requested whether the organization described below is defined in section 170(b)(1)(A)(ii) of the Internal Revenue Code of 1954 and, therefore, is not a private foundation by reason of section 509(a)(1).

The organization is organized and operated exclusively for educational purposes and has been recognized as exempt from Federal income tax under section 501(c)(3) of the Code. The organization's primary activity consists of providing instruction by correspondence in a specialized professional area. It is not a publicly supported organization described in section 170(b)(1)(A)(vi), nor is it an organization described in section 509(a)(2), (3), or (4).

In addition to providing instruction by correspondence, the organization offers a seminar program to students who have completed the correspondence part of the course. The seminar program consists of five to ten days of personal instruction from the organization's staff.

Section 509(a) of the Code provides that the term 'private foundation' means a domestic or foreign organization described in section 501(c)(3) other than an organization described in sections 509(a)(1), (2), (3), or (4). The organizations coming within section 509(a)(1) include those described in section 170(b)(1)(A)(ii).

Section 170(b)(1)(A)(ii) of the Code covers educational organizations that normally maintain a regular faculty and curriculum and normally have a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on. Section 151(e)(4) similarly describes educational institutions.

Section 1.151-3(c) of the Income Tax Regulations states that the term 'educational institution' does not include correspondence schools.

Section 1.170A-9(b)(1) of the regulations provides that an organization is described in section 170(b)(1)(A)(ii) of the Code if its primary function is the presentation of formal instruction and it otherwise fits the description contained in that section.

Since the organization's primary activity consists of providing instruction by correspondence, the organization is not described in section 170(b)(1)(A)(ii) of the Code, even though the seminar program conducted by the organization may satisfy that section's requirements. Accordingly, the organization is a private foundation as defined in section 509(a).